

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JIJIBHOY J. PATEL, et al.,

Plaintiffs,

No. CIV S-99-1275 JAM EFB PS¹

vs.

DAMERON HOSPITAL, et al.,

Defendants.

ORDER

On April 23, 2008, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Plaintiff filed late objections on July 29, 2008, as well as an addendum filed on August 4, 2008, and they were considered by the undersigned.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made,

¹ On April 30, 2008, this case was reassigned to District Judge John A. Mendez. *See* Docket Entry no. 126.

1 the court assumes its correctness and decides the motions on the applicable law. See Orand v.
2 United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
3 reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.
4 1983).

5 The court has reviewed the applicable legal standards and, good cause appearing,
6 concludes that it is appropriate to adopt the proposed Findings and Recommendations in full.
7 Accordingly, IT IS ORDERED that:

8 1. The proposed Findings and Recommendations filed April 23, 2008, are
9 ADOPTED;

10 2. The Rule 12(b)(5) motions to dismiss filed by the Dameron defendants and
11 defendants Gray, Green and Blomberg, are granted except as to defendants Liem, Buhari, and
12 Cacho;

13 3. The remaining defendants are dismissed pursuant to Rule 12(e) for plaintiffs'
14 failure to submit a clarifying affidavit that complied with the court's order, and based on
15 plaintiffs' failure to prosecute;

16 4. The entire action is dismissed without further leave to amend for plaintiffs'
17 failure to comply with court orders and for failure to prosecute. *See* Local Rule 11-110; Fed. R.
18 Civ. P. 41(b); and,

19 5. The Clerk is directed to close this case.

20 DATED: October 23, 2008

21 /s/ John A. Mendez
22 UNITED STATES DISTRICT JUDGE
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